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United States Department of Labor

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

HILDA SOLIS, Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

HI-HEALTH SUPERMART
CORPORATION, an Arizona
corporation; SIMON D. CHALPIN, an
individual;

Defendants.

) Case No.:

) COMPLAINT FOR
) VIOLATIONS OF THE
) FAIR LABOR STANDARDS ACT

I.

Plaintiff HILDA SOLIS, Secretary of Labor, United States Department of Labor, brings this action to enjoin Defendants HI-HEALTH SUPERMART CORPORATION, an Arizona corporation, and SIMON CHALPIN, an individual, from violating the provisions of sections 7 and 15 of the Fair Labor Standards Act of 1938, as Amended, 29 U.S.C. § 201, *et seq.* (hereinafter “the Act”), pursuant to section 17 of the Act; and to recover unpaid overtime compensation owing to Defendants’ employees, together with an equal amount as liquidated damages, pursuant to section 16(c) of the Act.

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II.

Jurisdiction of this action is conferred upon the court by sections 16(c) and 17 of the Act and 28 U.S.C. §1345.

III.

(a) Defendant Hi-Health Supermart Corporation (hereinafter “Hi-Health”) is and at all times hereinafter mentioned was an Arizona corporation with an office and a place of business at 7428 E. Karen Drive, Scottsdale, Arizona, within the jurisdiction of this court and is and at all times hereinafter mentioned was engaged in the business of retail distribution of health items.

(b) Defendant SIMON CHALPIN, an individual, resides in Carefree, Arizona, within the jurisdiction of this court, and at all times hereinafter mentioned acted directly or indirectly in the interest of Defendant Hi-Health in relation to its employees.

IV.

Defendant Hi-Health is and at all times hereinafter mentioned was engaged in related activities performed through unified operation or common control for a common business purpose and is and at all times hereinafter mentioned was an enterprise within the meaning of section 3(r) of the Act.

V.

Defendant Hi-Health at all times hereinafter mentioned was an enterprise engaged in commerce or in the production of goods for commerce within the meaning of section 3(s)(1)(A) of the Act in that said enterprise at all times hereinafter mentioned had employees engaged in commerce or in the production of goods for commerce, or employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by any person and in that said enterprise has and has had an annual gross volume of sales made or business done of not less than \$500,000.

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VI.

Defendants have repeatedly violated the provisions of sections 7 and 15(a)(2) of the Act, by employing many of their employees who were engaged in commerce or in the production of goods for commerce, or who were employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the Act, as aforesaid, for workweeks longer than forty hours without compensating said employees for their employment in excess of forty hours per week during such workweeks at rates not less than one and one-half times the regular rate at which they were employed.

VII.

During the period since at least June 1, 2008, Defendants, as employers subject to the provisions of the Act, have repeatedly violated and continue to violate the aforesaid provisions of the Act. A judgment that enjoins and restrains such violations and includes the restraint of any withholding of payment of unpaid overtime compensation found by the court to be due to present and former employees under the Act is expressly authorized by section 17 of the Act.

WHEREFORE, cause having been shown, Plaintiff prays for a judgment against Defendants as follows:

1. For an Order pursuant to section 17 of the Act, permanently enjoining and restraining Defendants, their officers, agents, servants, employees, and those persons in active concert or participation with them from prospectively violating the provisions of section 15 of the Act; and

2. For an Order:

(a) pursuant to section 16(c) of the Act finding Defendants liable for unpaid overtime compensation due Defendants' employees and for liquidated damages equal in amount to the unpaid compensation found due defendants' employees listed in the attached Exhibit A (additional back wages and liquidated damages may be owed to certain employees presently unknown to Plaintiff for the

1 period covered by this complaint); or in the event liquidated damages are not
2 awarded; and

3 (b) pursuant to section 17 enjoining and restraining Defendants,
4 their officers, agents, servants, employees and those persons in active concert or
5 participation with defendants, from withholding payment of unpaid back wages
6 found to be due Defendants' employees and pre-judgment interest computed at the
7 underpayment rate established by the Secretary of Treasury pursuant to 26 U.S.C.
8 6621; and

9 3. For an Order awarding Plaintiff the costs of this action; and

10 4. For an Order granting such other and further relief as may be
11 necessary or appropriate.

12 Dated: April 7, 2011

M. PATRICIA SMITH
Solicitor of Labor

LAWRENCE BREWSTER
Regional Solicitor

DAVID M. KAHN
Counsel for ESA Programs

17 /s/
18 ISABELLA M. FINNEMAN
19 Senior Trial Attorney

20 U.S. DEPARTMENT OF LABOR
21 Attorneys for Plaintiff

EXHIBIT A

AGUILAR, BAUDELIO R.

ALLEN, KRISTIE L.

ANTHONY, DANIEL S.

ARANGURE, CARLA R.

AUERBACH, MICHELLE D.

AUSTIN, JOHN D.

BARDAWEEL, ALEXANDER N.

BARNES, MONTANA S.

BAUER, BRENDA M.

BEALE, JEREMIE M.

BERNS, ANDREA D.

BRODERICK, TRUDI M.

BUNTEN, REBECCA W.

BUSH, KRISTINE L.

COLON, PATRICK T.

CONS, ROBIN L.

CRUM, VICTORIA M.

DAMICO, JAMES

DEEMS, WENDY P.

DIAMOND, BONNIE L.

1 ENRIQUEZ, SONIA
2 FOSHEE, SUZETTE A.
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4 GALLAGHER, RICHARD T.
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6 GODDIN, SHERELYN E.
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8 GOLLY, NICOLE E.
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10 GUZMAN, DANIEL
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12 HAMEDANIZADEH, PARVIN
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14 HARMON, VALERIE M.
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16 HASAN, QAZI M.
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18 HEISER, DANIEL W.
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20 HILL, PAULA R.
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22 JANMAN, JAIME L.
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24 JOHNSON, HANNAH B.
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26 KOOLSTRA, JOHN H.
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28 LENHARDT, DANA M.
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30 LILLY, ORAN A.
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32 LOPEZ, JOHN R.
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34 LOPEZ, JUAN D.
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36 LOSTUMO, ROSEMARY
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38 LYSON, SEAN T.
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40 MARSCHER, WILLIAM S.

1 McENTIRE, KIMBERLEE A.
2 MEAD, MANDI M.
3 MEEK, SONIA R.
4 MICKLEBOROUGH, ALEXIA J.
5 MORRIS, CYNTHIA M.
6 NUSSER, NANCY A.
7 O'DONNELO, MARILYN S.
8 OLLENDICK, JENNIFER
9 PATRIDGE, CHRISTINA N.
10 PLACEK, JEFF M.
11 PORCELLI, CHERYL K.
12 SCHOLBERG, ERIC B.
13 SCOVILLE, LILIAN V.
14 SERVIN, MEGEN A.
15 SIMPSON, JASON M.
16 STEPHENS, REBECCA
17 STORZ, ERNEST J.
18 TAFOYA, DANIEL D.
19 TAYLOR, JOSHUA J.
20 TRAMMEL, GABRIELLE L.
21 WESTBROOK, ELIZABETH A.

1 WHEAT, KATIE M.

2 WILSON, NANCY

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4 WOODS, YVONNE N.

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